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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,537	09/22/2005	Rebecca A Capper	36-1943	3126
23117 7590 10/11/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER RAJAN, KAI	
			ART UNIT 3736	PAPER NUMBER
			MAIL DATE 10/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,537	<b>Applicant(s)</b> CAPPER ET AL.	
	<b>Examiner</b> Kai Rajan	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Items 12 and 20 of Figure 1 are missing from the specification.

Items 303 and 316 of Figure 3A are missing from the specification.

Item 320 of Figure 3B is missing from the specification.

Item 402 of Figure 4 is missing from the specification.

Items 501 and 505 of Figure 5 are missing from the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 – 12, 14, 15, and 18 – 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Belrose U.S. PGPub No. 2002/0191757.**

1. A sensory output device including control means responsive to episodic receipt of data signals defining a source and/or an emotional representation (emoticon) to provide an output stimulus defining the received data signals and dependant thereon characterised in that the control means is responsive to each episode to modify the intensity of the response or to amend the response such that the output stimulus develops an intensity which changes to reflect perceivable characteristics of the source (Paragraphs 0032 – 0040, figures 1, 2, 3).

2. A sensory output device as claimed in claim 1 comprising a data store which is user programmable with preferred output responses to specific source related data (Paragraphs 0044 – 0046, figure 2).

3. A sensory output device as claimed in claim 2 in which the data store includes data defining a plurality of attributes associated with each source, each such attribute reflecting at

Art Unit: 3736

least one emoticon and having an intensity value associated therewith, the intensity marker being incremented or decremented to reflect historic values of emotional representations received from the respective source (Paragraphs 0044 – 0046, figures 2, 3).

4. A sensory output device as claimed in claim 3 in which the intensity markers are decremented periodically if a pre-determined period of time elapses without receipt of an emotional representation from a source (Paragraphs 0044 – 0048, figures 2, 3).

5. A sensory output device as claimed in claim 4 in which the intensity value associated with any emoticon is bounded such that a maximum intensity of response is provided (Paragraphs 0044 – 0048, figures 2, 3).

6. A sensory output device as claimed in claim 1 in which the data signals are derived from a cellular telephony messaging system (Figure 7).

7. A sensory output device as claimed in claim 6 in which the data signals are transferred to the control means directly by receipt from a cellular telephone network (Figure 7).

8. A sensory output device as claimed in claim 6 in which the data signals are transferred to the control means by way of a communication to a telephone handset with which the SOD has been previously paired (Paragraphs 0071 – 0081, figure 7).

9. A sensory output device as claimed in claim 8 in which the data signals are transferred using low power radio signaling to effect communication between a paired handset and the SOD (Paragraphs 0071 – 0081, figure 7).

10. A sensory output device as claimed in claim 1 in which received SMS messages are scanned by the control means to identify emoticons or specific words or phrases contained within a message to determine the response and intensity of response of the SOD (Paragraphs 0032 – 0039).

11. A sensory output device as claimed in claim 10 in which the control means scans received messages to determine if a received message contains one or more emoticons for which a response is pre-defined, and, if so, the immediate responsive output may be intensified to reflect a strength marker associated with the identified emoticons (Paragraphs 0032 – 0039).

12. A sensory output device as claimed in claim 10 in which the control means scans received messages to determine if a received message contains one or more emoticons for which a response is pre-defined, and, if so, determines if the message contains a plurality of emoticons of similar characteristic and the intensifies the response to reflect the number of emoticons present (Paragraphs 0032 – 0039).

14. A sensory output device as claimed in claim 1 in which the device comprises a wearable element which may be adapted to provide an optical response which includes a colour change capability (Paragraph 0091).

15. A sensory output device as claimed in claim 1 in which the device comprises a wearable element which may be adapted to provide an olfactory response (Figure 7 item 81).

18. A sensory output device as claimed in claim 1 in which the device comprises a three dimensional object responsive to data signals to provide a thermal, visual, vibration or olfactory response (Paragraphs 0032 – 0034, figure 7 item 81).

19. A sensory output device as claimed in any one of claim 18 in which the object is incorporated in a wearable element (Paragraphs 0032 – 0034, figure 7).

20. A sensory output device as claimed in claim 1 comprising a three dimensional character having characteristics including movements of one or more parts thereof, the movement of the parts being dependent upon the source and/or emotional messages received or derived therefrom (Paragraphs 0071- 0081, figure 7 item 81).

21. A sensory output device as claimed in claim 1 in which the control means is also be responsive to voice communications and includes voice recognition means whereby particular

Art Unit: 3736

words or phrases spoken during a conversation or received as a voice message is used to provide a responsive output to the SOD (Paragraphs 0032 – 0040, figure 7).

**Claims 1, 13, 16, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Nieminen – Sundell et al. U.S. PGPub No. 2005/0181827.**

1. A sensory output device including control means responsive to episodic receipt of data signals defining a source and/or an emotional representation (emoticon) to provide an output stimulus defining the received data signals and dependant thereon characterised in that the control means is responsive to each episode to modify the intensity of the response or to amend the response such that the output stimulus develops an intensity which changes to reflect perceivable characteristics of the source (Paragraphs 0023 – 0026, 0037 – 0041).

13. A sensory output device as claimed in claim 1 in which the device comprises a wearable element which may be adapted to provide a thermal response to a particular source and to vary the intensity of the thermal response in dependence upon identified characteristics of a received message (Paragraphs 0023 – 0026, 0037 – 0041).

16. A sensory output device as claimed in claim 1 in which the device comprises a wearable element including means to cause constriction of at least a part of the wearable element (Paragraphs 0023 – 0026, 0037 – 0041).



Art Unit: 3736

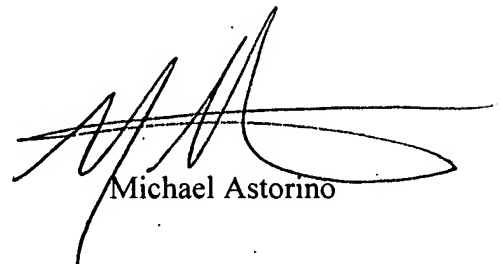
17. A sensory output device as claimed in claim 1 in which the device comprises a wearable element including means to provide a vibrational stimulus to the wearer (Paragraphs 0023 – 0026, 0037 – 0041).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is 571-272-3077. The examiner can normally be reached on Monday-Friday 9:00AM to 4:00PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KR  
October 4, 2007



Michael Astorino